CERTIFICATE.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. ~~396~~ 39.

ROTHSCHILD & BROTHER, APPELLANTS,

vs.

THE UNITED STATES.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

FILED MAY 19, 1899.

(17,412.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 298.

ROTHSCHILD & BROTHER, APPELLANTS,

vs.

THE UNITED STATES.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., SEPTEMBER 20, 1899.

1 United States Circuit Court of Appeals for the Second Circuit

ROTHSCHILD & BROTHER, Appellants,
vs.
UNITED STATES, Appellee.

This cause came on to be heard and is now pending in this court upon an appeal from an adjudication of the circuit court of the United States for the southern district of New York reversing a decision of the board of general appraisers made pursuant to section 14 of the customs administrative act of June 10, 1890.

The appellants imported from San Domingo into the port of New York in September, 1897, certain bales of unstemmed leaf tobacco, the product of San Domingo, in which bales there was mixed or packed with filler tobacco less than four per centum of leaves suitable for wrappers. The collector of the port assessed duty upon the leaves of filler tobacco in each bale at the rate of thirty-five cents per pound, and upon the leaves suitable for wrapper at one dollar and eighty-five cents per pound, assuming to do so conformably with the provisions of the tariff act of July 24, 1897 (Schedule F, 213, 214), imposing duty on wrapper and filler tobacco as follows: "Par. 213. Wrapper tobacco, and filler tobacco when mixed or packed with more than fifteen per centum of wrapper tobacco,
2 and all leaf tobacco the product of two or more countries or dependencies when mixed or packed together, if unstemmed, one dollar and eighty-five cents per pound; if stemmed, two dollars and fifty cents per pound; filler tobacco not specially provided for in this act, if unstemmed, thirty-five cents per pound; if stemmed, fifty cents per pound." "Par. 214. The term wrapper tobacco as used in this act means that quality of leaf tobacco which is suitable for cigar wrappers, and the term filler tobacco means all other leaf tobacco."

Certain questions of law arise in the cause, concerning which the court desires the instruction of the Supreme Court for its proper decision, and which are as follows:

1. Is it the meaning of the tariff act of July 24, 1897, to subject to different rates of duty the leaves of tobacco suitable for cigar wrappers and those not suitable when mixed in the same commercial bale or package?

2. Is it the meaning of said act to subject to the duty of one dollar and eighty-five cents per pound the leaves of tobacco suitable for cigar wrappers intermingled in the bales or packages of tobacco (unstemmed) of the description which, in their entirety at the date of the enactment, were commercially known in this country as "filler tobacco" and bought and sold by that name, notwithstanding such leaves constitute less than fifteen per centum of the contents?

In accordance with the provisions of section 6 of the act of

March 3, 1891, establishing circuit courts of appeal, etc., the
3 foregoing questions of law are by the circuit court of appeals hereby certified to the Supreme Court.

Dated the 2nd day of May, 1899.

WM. J. WALLACE,
U. S. Circuit Judge.
N. SHIPMAN,
U. S. Circuit Judge.

4 UNITED STATES OF AMERICA, } ss.:
Second Circuit, }

I, William Parkin, clerk of the United States circuit court of appeals for the second circuit, do hereby certify that the foregoing certificate in the case entitled Rothschild & Brother against The United States was duly filed and entered of record in my office by order of said court on the 2nd day of May, 1899, and, as directed by said court, the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said United States circuit court of appeals for the second circuit this 2nd day of May, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-second.

Seal United States Circuit Court of Appeals, Second Circuit.

WM. PARKIN,
Clerk of the United States Circuit Court of Appeals for the Second Circuit.

[Ten-cent U. S. internal-revenue stamp, cancelled 5, 2, '99. W. P.]

[Endorsed:] United States circuit court of appeals, second circuit. Rothschild & Brother, appellants, *vs.* United States, appellee. Certificate.

Endorsed on cover: (Certificate.) File No., 17,412. U. S. C. C. of appeals, 2nd circuit. Term No., 298. Rothschild & Brother, appellants, *vs.* The United States. Filed May 19th, 1899.

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No. 298.

Motion to advance

Office Supreme Court U. S.
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JAN 22 1900
JAMES H. McKENNEY,
Clerk.

Filed Jan. 22, 1900.

In the Supreme Court of the United States.

OCTOBER TERM, 1899.

ROTHSCHILD & BROTHER
v.
THE UNITED STATES. } No. 298.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

MOTION TO ADVANCE.